

**NOTICE OF FINAL RULEMAKING**

**TITLE 3. AGRICULTURE**

**CHAPTER 9. DEPARTMENT OF AGRICULTURE**

**AGRICULTURAL COUNCILS AND COMMISSIONS**

**ARTICLE 5. ARIZONA CITRUS RESEARCH COUNCIL**

**PREAMBLE**

- |                  |                                 |                                 |
|------------------|---------------------------------|---------------------------------|
| <b><u>1.</u></b> | <b><u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|                  | R3-9-506                        | Amend                           |
- 2.**    **The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**
- Authorizing statutes: A.R.S. § 3-468.02
- Implementing statutes: A.R.S. § 3-468.02
- 3.**    **The effective date of the rules:**
- Sixty days after the Council files the rules with the Secretary of State's Office.
- 4.**    **A list of all previous notices appearing in the Register addressing the rules:**
- Notice of Docket Opening: 14 A.A.R. 2040, May 23, 2008; and
- Notice of Proposed Rulemaking: 14 A.A.R. 2029, May 23, 2008.
- 5.**    **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name:                      Carlos Ramírez, Rules Analyst
- Address:                    Arizona Department of Agriculture
- 1688 West Adams
- Phoenix, Arizona 85007
- Telephone Number:      (602) 542-0962
- Fax Number:              (602) 542-5420
- E-mail:                      cramirez@azda.gov
- 6.**    **An explanation of the rules, including the agency's reasons for initiating the rules:**

The Arizona Citrus Research Council, serving in cooperation with the Department of Agriculture, is amending R3-9-506 to prescribe requirements for governmental units that wish to apply for Council grants. Governmental units will include any department, commission, council, board, bureau, committee, institution, agency, government, corporation, or other establishment or official of the executive branch or corporation commission of this state, another state, or the federal government. The Department's separate treatment of governmental units when applying for grants is consistent with the differences in how they are treated under Title 41, dealing with grants.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

In fiscal year 2006-2007 the ACRC issued \$30,000 in grants. The rulemaking will prescribe guidelines for governmental units to apply for grants, absent the public notification process and the partial distribution requirements. The Council anticipates this will affect applicants for grants by making the process more competitive, but it will also foster further research in advancing the Council's objectives for citrus research. It is unlikely the rulemaking will affect public or private employment or the state's general fund. The Council has determined there are no alternative means of achieving the objectives of the rulemaking.

**10. A description of the changes between the proposed rules, including supplemental notices, and the final rules:**

The Department erred in its justification in the preceding Notice of Proposed Rulemaking. The Department intended to state that when the ACRC established its grant rules, it prescribed guidelines that applied to all applicants, whether they were persons (as defined by A.R.S. § 41-2701) or

governmental units. This made the Council's rules more restrictive than the grant statutes in Title 41, which recognize the difference between persons and governmental units. The rulemaking resolves this restriction by prescribing a grant application process for governmental units while still preserving the openness of the evaluation process by putting consideration of the grant application before the ACRC during an open meeting.

The Department has also made minor revisions to the rule language as suggested by GRRRC staff.

**11. A summary of the comments made regarding the rules and the agency response to them:**

No comments received

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

None

**14. The full text of the rules follows:**

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Section

R3-9-506. Grants

## ARTICLE 5. ARIZONA CITRUS RESEARCH COUNCIL

### R3-9-506. Grants

#### A. Definitions.

1. "ACRC" means the Arizona Citrus Research Council.
2. "Authorized signature" means the signature of an individual authorized to receive funds on behalf of the applicant and responsible for the execution of the applicant's project.
3. "Awardee" means a successful applicant to whom the ACRC awards grant funds for research on a specific project.
4. "Governmental unit" means any department, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch or corporation commission of this state, another state, or the federal government.
5. "Grant" means an award of financial support to an applicant according to A.R.S. § 3-468.02(B) and (C)(5).
- ~~5~~ 6. "Grant award agreement" means a document advising the applicant of the amount of money awarded following receipt by the ACRC of the applicant's signed acceptance.

#### B. Grant application process.

1. The ACRC shall award grants according to the competitive grant solicitation requirements of this Article.
2. The ACRC shall post the grant application and manual on the ACRC's web site at least four weeks before the due date of a grant application.
3. The ACRC shall ensure that the grant application manual contains the following items:
  - a. Grant topics related to ACRC programs specified by A.R.S. § 3-468.02(B) and (C)(5);
  - b. A statement that the information contained in an application is not confidential;
  - c. A statement that the ACRC funding source is primarily from per carton assessments on citrus grown in Arizona;

- d. An application form including sections about the description of the grant project, scope of work to be performed, an authorized signature line, and a sample budget form;
  - e. A statement that the applicant shall not include overhead expenses in the budget for the proposed project;
  - f. The criteria that the ACRC shall use to evaluate an application;
  - g. The date and time by which the applicant shall submit an application;
  - h. The anticipated date of the ACRC award;
  - i. A copy of the ACRC grant solicitation rules; and
  - j. Any other information necessary for the grant application.
- 4. The ACRC shall not consider an application received by the ACRC after the due date and time.
- C. Criteria. The ACRC shall consider the following when reviewing a grant application and deciding whether to award ACRC funds:
  - 1. The applicant's successful completion of prior research projects,
  - 2. The extent to which the proposed project identifies solutions to current issues facing the citrus industry,
  - 3. The extent to which the proposed project addresses future issues facing the citrus industry,
  - 4. The extent to which the proposed project addresses the findings of any industry surveys conducted within the previous year,
  - 5. The appropriateness of the budget request in achieving the project objectives,
  - 6. The appropriateness of the proposal time-frame to the stated project objectives, and
  - 7. Relevant experience and qualifications of the applicant.
- D. Public participation.
  - 1. The ACRC shall make all applications available for public inspection by the business day following the application due date.

2. Before awarding a grant, the ACRC shall discuss and evaluate grant applications and proposed projects at a meeting conducted under A.R.S. § 38-431 et seq.
- E. Evaluation of grant applications.
1. The ACRC may allow applicants to make oral or written presentations at the public meeting if time, applicant availability, and meeting space permit.
  2. The ACRC may modify an applicant's proposed project in awarding funding.
  3. The ACRC shall notify an applicant in writing of the ACRC's decision to fund, modify, or deny funding for a proposed project within 10 business days of the ACRC decision.  
  
The ACRC shall notify applicants by the U.S. Postal Service, commercial delivery, electronic mail, or facsimile.
- F. Awards and project monitoring.
1. Before releasing grant funds, the ACRC shall execute a grant award agreement with the awardee. The awardee shall agree to accept the grant's legal requirements and conditions and authorize the ACRC to monitor the progress of the project by signing a grant award agreement.
  2. The ACRC shall pay no more than 50% of the grant in the initial payment to the awardee.
  3. During the term of the project, the awardee shall inform the ACRC of changes to the awardee's address, telephone number, or other contact information.
  4. The ACRC may require an interim written report or oral presentation from the awardee during the pendency of the project.
  5. The ACRC shall not award the grant funds remaining after the initial payment until the awardee submits to the ACRC:
    - a. A final research report, and
    - b. An invoice for actual final project expenses not exceeding the remaining portion of the award.
  6. The ACRC shall make research findings and reports resulting from any grant awarded by the ACRC available to Arizona citrus producers.

- G. Repayment. If the awardee does not complete the project as specified in the grant award agreement, the awardee shall return all unexpended grant funds within 30 days after receipt of written request by the ACRC.

H. Governmental units.

1. The ACRC may request one or more governmental units to submit grant applications as prescribed in subsection (H)(3), without regard to subsections (B), (F)(2), and (F)(5).
2. The ACRC may issue grants to governmental units without regard to subsections (B), (F)(2), and (F)(5).
3. A governmental unit may apply to the ACRC for a grant when there is no pending request for grant applications under subsection (B) under the following conditions:
  - a. The application shall include a description of the project, the scope of work to be performed, a budget that does not include overhead expenses, and an authorized signature.
  - b. The application shall be available for public inspection upon receipt by the ACRC.